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10/075,065	02/13/2002	William Eugene Moser	47440-044001	7475
7590 12/12/2005			EXAMINER	
Stephen T. Scherrcr McDermott, Will & Emery 227 West Monroe Street Chicago, IL 60606-5096			ABEL JALIL, NEVEEN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/075,065

Applicant(s)

MOSER ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on November 28, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Remarks

1. The Amendment filed on November 28, 2005 has been received and entered. Claims 1-20 now pending.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 8-12, 14, 16-17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529).

As to claim 1, Gibbs discloses a method for inspecting rail equipment and storing information relating to the inspection comprising:

providing rail equipment having a plurality of parts (See Gibbs column 3, lines 4-30);  
inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment (See Gibbs column 16, lines 5-67, also see Gibbs column 4, lines 1-37);  
providing a data entry system for recording the condition of the parts of the rail equipment wherein the data entry system comprises a plurality of fields for entering information related to the damage condition of the rail equipment (See Gibbs column 15, lines 15-58, also see Gibbs column 16, lines 47-54, wherein "damage condition" reads on "mechanical failure");

inputting the information into the data entry system (See Gibbs column 2, lines 38-67);  
generating at least one report related to an overall damage condition of the rail equipment that is calculated from the information input into the data entry system (See Gibbs column 18, lines 1-67, also see Gibbs column 21, lines 1-41, and see Gibbs column 9, lines 31-56); and  
providing a database interconnected with the data entry system for storing information input into the data entry system or generated by the data entry system (See Gibbs column 10, lines 26-36, and see Gibbs column 7, lines 18-47, and see Gibbs column 8, lines 42-66).

Gibbs shows:

monitoring and storing performance and status of railway equipment (See figure 9C, also see column 22, lines 1-30);

reporting capability on selected conditions related to rail equipment or entire train (See figure 9C, also see column 22, lines 1-30);

tracking and reporting (computerized train control map) of rail equipment conditions (whether locomotive is dead or isolated, and mechanical failure codes);

Gibbs does not expressly show providing a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system for the rail equipment. However, Gibbs reference as a whole teaches a computer aided dispatch system column 4, lines 42-45 in accordance with problem flag column 11, line 4, a tag status, an activity and an owner (i.e. dispatch unit crew) column 11, lines 31-33 under the command of the dispatcher column 7, lines 10-12.

Gibbs further does not expressly show based on the overall damage condition of the rail equipment.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system for the rail equipment and assigning one of the plurality of dispositions to the rail equipment based on the overall damage condition of the rail equipment (i.e. to provide and assign plurality of status conditions, and setting alert status to dispatch a repair unit) having any type of content because Gibbs is directed to railroad transportation monitoring and management system and method by detecting, assigning status, and monitoring a set of real time identification, and display characteristics for the set of transports within the transportation network and generating an output display characterizing relationships between the set of transports based on the information collected in the monitoring step (See Abstract).

As to claims 3, Gibbs as modified discloses wherein the data entry system stores information relating to a plurality of types of railcars (See Gibbs column 3, lines 4-30).

As to claim 4, Gibbs as modified discloses wherein the railcars may be selected from the group consisting of box cars, flat cars, hopper cars, general purpose tank cars, open top hopper and gondola cars, plastic pellet cars, pressure differential cars and pressure tank cars (See Gibbs column 16, lines 13-51).

As to claim 5, Gibbs as modified discloses wherein the report comprises information related to whether the rail equipment must be repaired or whether the rail equipment is useable in

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it present state (See Gibbs column 10, lines 62-67, and see Gibbs column 11, lines 34, also see Gibbs column 16, lines 35-67, and see Gibbs column 17, lines 1-24).

As to claim 8, Gibbs as modified discloses assigning a damage indicator for each part of the rail equipment (See Gibbs column 2, lines 18-67, wherein “damage indicator“ reads on “detection signals”, also see Gibbs column 10, lines 62-67, and see Gibbs column 11, lines 1-5); and

inputting the damage indicator for each part of the rail equipment into the data entry system (See Gibbs column 19, lines 4-59).

As to claim 9, Gibbs as modified discloses adding information into the data entry system relating to the inspector of the rail equipment (See Gibbs column 1, lines 60-67, and see Gibbs column 2, lines 1-17).

As to claim 10, Gibbs as modified discloses wherein the information further comprises the identity of the rail equipment (See Gibbs column 3, lines 4-30, also see Gibbs column 10, lines 46-67, and see Gibbs column 11, lines 1-62).

As to claim 11, Gibbs as modified discloses selecting a record of rail equipment from the database (See Gibbs column 2, lines 38-67);

editing information on the record of the rail equipment (See Gibbs column 10, lines 26-36, and see Gibbs column 7, lines 18-47, and see Gibbs column 8, lines 42-66); and

saving the information to the database (See Gibbs column 10, lines 26-36).

As to claim 12, Gibbs discloses a data entry system for inputting information related to an inspection of rail equipment wherein the rail equipment comprises a plurality of parts comprising:

means for inputting information relating to the type of rail equipment (See Gibbs column 3, lines 4-30);

means for inputting information relating to an identification of the rail equipment (See Gibbs column 3, lines 4-30, also see Gibbs column 10, lines 46-67, and see Gibbs column 11, lines 1-62);

means for inputting information relating to a damage condition of each of the parts of the rail equipment (See Gibbs column 4, lines 11-18, also see Gibbs column 22, lines 1-22, also see Gibbs column 16, lines 47-54, wherein “damage condition” reads on “mechanical failure”); and

means for calculating an overall damage condition for the rail equipment based on information relating to the damage condition of each of the parts of the rail equipment (See Gibbs column 21, lines 1-41, also see Gibbs column 9, lines 31-56); and

means for generating at least one report related to the information entered about the damage condition of each of the parts of the rail equipment (See Gibbs column 18, lines 1-67, also see Gibbs column 22, lines 23-67, also see Gibbs column 21, lines 1-41, and see Gibbs column 9, lines 31-56).

Gibbs shows:

monitoring and storing performance and status of railway equipment (See figure 9C, also see column 22, lines 1-30);

reporting capability on selected conditions related to rail equipment or entire train (See figure 9C, also see column 22, lines 1-30);

tracking and reporting (computerized train control map) of rail equipment conditions (whether locomotive is dead or isolated, and mechanical failure codes).

Gibbs does not expressly show means for assigning a disposition from a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system. However, Gibbs reference as a whole teaches a computer aided dispatch system column 4, lines 42-45 in accordance with problem flag column 11, line 4, a tag status, an activity and an owner (i.e. dispatch unit crew) column 11, lines 31-33 under the command of the dispatcher column 7, lines 10-12.

Gibbs further does not expressly show based on the overall damage condition of the rail equipment.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system for the rail equipment and assigning one of the plurality of dispositions to the rail equipment based on the overall damage condition of the rail equipment (i.e. to provide and assign plurality of status conditions, and setting alert status to dispatch a repair unit) having any type of content because Gibbs is directed to railroad transportation monitoring and management system and method by detecting, assigning status, and monitoring a set of real time identification, and display



characteristics for the set of transports within the transportation network and generating an output display characterizing relationships between the set of transports based on the information collected in the monitoring step (See Abstract).

As to claim 14, Gibbs as modified discloses a database for storing the information input into the data entry system (See Gibbs column 6, lines 12-28, also see Gibbs column 8, lines 16-41).

As to claim 16, Gibbs as modified discloses wherein the rail equipment is a railcar (See Gibbs column 7, lines 37-67).

As to claim 17, Gibbs as modified discloses wherein the information relating to the condition of the rail equipment indicates whether the rail equipment is damaged (See Gibbs column 4, lines 11-18, also see Gibbs column 22, lines 1-22).

As to claim 19, Gibbs as modified discloses wherein the reports indicate whether the rail equipment is useable in its present form or whether the rail equipment needs repairs (See Gibbs column 19, lines 4-45).

As to claim 20, Gibbs as modified discloses means for saving the information and reports into a database (See Gibbs column 18, lines 1-67).

4. Claims 2, 6-7, 13, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Jarrett (U.S. Patent No. 6,345,257 B1).

As to claim 2, Gibbs as modified still does not teach wherein the report comprises information relating to an estimated cost of repair of the rail equipment.

Jarrett teaches wherein the reports comprise information relating to an estimated cost of repair of the rail equipment (See Jarrett column 15, lines 27-67).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

As to claim 6, Gibbs as modified does not teach wherein the report further comprises information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped.

Jarrett teaches wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped (See Jarrett column 1, lines 46-67, also see Jarrett abstract).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped because it allows for quicker and efficient response time to problem reporting thereby cutting operational business costs.

As to claims 7, and 18, Gibbs as modified still does not teach printing blank forms relating to the rail equipment from the data entry system.

Jarrett teaches printing blank forms relating to the rail equipment from the data entry (See Jarrett column 7, lines 63-67, and see Jarrett column 8, lines 1-13).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include printing blank forms relating to the rail equipment from the data entry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include printing blank forms relating to the rail equipment from the data entry because it allows for accommodation of user preferences and customization and provides for aviability of on the spot

trouble data entry means for maintenance/inspection crew.

As to claim 13, Gibbs as modified does not teach wherein the report comprises information relating to an estimated cost of repair for the rail equipment based on the information input relating to the condition of the railcar equipment.

Jarrett teaches wherein the reports comprise information relating to an estimated cost of repair for the railcar equipment based on the information input relating to the condition of the railcar equipment (See Jarrett column 15, lines 27-67, also see Jarrett column 5, lines 15-25).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include wherein the reports comprise information relating to an estimated cost of repair for the railcar equipment based on the information input relating to the condition of the railcar equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports comprise information relating to an estimated cost of repair for the railcar equipment based on the information input relating to the condition of the railcar equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

As to claim 15, Gibbs as modified still does not teach means for calculating an estimated total repair cost for the rail equipment.

Jarrett teaches means for calculating an estimated total repair cost for the rail equipment (See Jarrett column 15, lines 27-67).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include means for calculating an estimated total repair cost for the rail equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include means for calculating an estimated total repair cost for the rail equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

#### ***Response to Arguments***

5. Applicant's arguments filed on November 28, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that "Gibbs does not teach wherein at least one disposition relates to repairing the rail equipment using mobile repair unit" is acknowledged but not deemed to be persuasive.

Applicant's specification in reciting the argued limitation introduces optionally clause with respect to this limitation and does not prohibit the use of the remaining options. Language that suggests or makes optional but does not require steps to be performed or does not limit a

claim or a particular structure does not limit the scope of a claim or claim limitation. Office personal must rely on the applicant's disclosure to properly determine the meaning of disposition (See MPEP 2106).

Specification paragraph 0009 defines the instant invention as a data entry system (i.e. just data) to calculate (i.e. just values) whether a rail car can be submitted to a customer "as-is", whether a mobile repair unit may be utilized to repair the railcar (i.e. a flag/code/value as an indicator), or whether the railcar should be sent to a repair shop to repair major damage (i.e. a flag/code/value as an indicator).

Now referring to applicant's own disclosure giving the optionally of a repair unit maybe dispatched when the numeric value is generated or the user can ignore the optional repairs all together as noted below

[0028] When all of the fields for each of the railcar parts have been entered into the data entry system via step 34, then a "Repair Disposition" report may be generated by the system via step 36 using the inputted information and the generic information relating to each type of railcar, and a numeric value may be generated that may correspond to three conditions: "Direct-to-Customer ("DTC")", "Mobile Repair Unit ("MRU")", or "Shop". If the numerical value representing "DTC" is generated via step 38, then the railcar can be shipped to a customer without taking any action on the railcar. If the numerical value representing "MRU" is generated via step 40, then a mobile repair unit may be sent to the storage location of the railcar to repair minor damage to the railcar. If the numerical value representing "Shop" is generated via step 42, then the

railcar should be sent to a repair shop to repair major damage to the railcar.

Even further the applicant's specification indicates that based on the disposition more than the three codes disclosed in paragraph 0028 above can be present, the fourth code being an "option" code see specification paragraph [0029] The numerical values generated via steps 38, 40 or 42 are determined by the data entry system by summing all of the inputs for the various railcar parts. The system determines, based on the inputs, whether the railcar should be shopped, whether a mobile repair unit should be dispatched, or whether the railcar can be sent directly to the customer. Preferably, the disposition of the railcar will be based on the worst repair disposition for any of the railcar parts. For example, if all but one of the railcar parts require a mobile repair unit, but one requires the car to be shopped, then the entire car should be shopped. Of course, if no repairs are necessary on the railcar, or if the repairs are only cited as "optional" and the user chooses to ignore the optional repairs, then the railcar may be designated as Direct-to-Customer. Again, some repairs may be mandatory, whereas some repairs may be optional. Optional repairs will be noted, as described above, but will not be considered unless the user of the data entry system indicates that the optional repairs should be considered.

While not recited in the claims, the Examiner, taking the specification into account in interpreting the argued newly claimed limitation, in particular, specification paragraph 0029 wherein the system is to display a code indicating a mobile unit needs dispatching more specific numerical value representing action needed; The Examiner clearly finds this teaching in Gibbs under numerous citations see column 11, lines 3-5, and column 11, lines 32-34, and column 12,

lines 35-48 which all teach labels, codes, and attribute showing a problem flag alerting the user for action (i.e. dispatch). Furthermore, Gibbs reference as a whole teaches a computer aided dispatch system column 4, lines 42-45 automatically generate graphical status and performance indicators from both historical and real-time data, thereby aiding users ranging from executives to clerks in the areas of planning, sales, optimum blocking, scheduling, revenue collection, shipment, customer management and report status generation (See column 4, lines 18-24, column 7, lines 5-12).

In response to applicant's argument that "Jarrett does not teach whether the rail equipment is repairable but a mobile unit or " is acknowledged and not deemed to be persuasive.

Not only is the claim language is optionally recited by using "or" terminology not limiting the scope of the claim (MPEP 2173.05(h) ) but it is also not clear to the Examiner if this step is done manually by the user reviewing the report or automatically by the system; furthermore, the Examiner maintains that Jarrett indeed teaches the argued limitation in column 16, lines 29-33 the interactive defect reporting system of the invention preferably also updates the OMS codes so that equipment problem histories can be easily generated wherein OMS codes are broadly interpreted to include dispatching of repair unit/crew. In the cited reference,

Jarrett teaches facsimile message 12 is generated immediately upon receipt of a problem reported by a crew member to IDRS under Option 1. The facsimile message 12 may have the form and contents set forth in FIG. 2. By interfacing with the ARROW system, IDRS is



capable of identifying the next downline repair facility, or all downline facilities, for purposes of faxing the problem notification of FIG. 2 to an appropriate mechanic. Mobile dispatch crew is broadly interpreted to read on "on-board" repair crew that receives trouble tickets with status codes as well as visualization of change in status to "repair" as shown in Jarrett column 12, lines 4-18. In column 4, lines 36-41, Jarrett teaches Mechanics can immediately access the telephonic message report and prepare for problems on a train well in advance of its arrival. Alternatively, the mechanics can await transcription of the report into a written text message that can be faxed on demand to the mechanic or other responsible or interested railway personnel.

Jarrett's Trouble Tickets are immediately available to all downline maintenance facilities clearly interpreted to be an indicator dispatched to the mobile repair crew (i.e. either on-board or mechanic on call).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

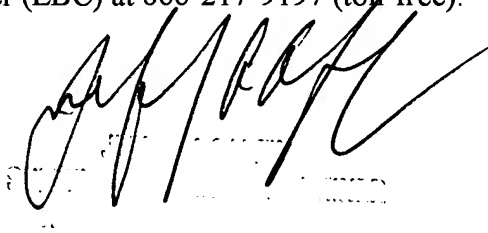
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil  
December 7, 2005

A handwritten signature in black ink, appearing to read 'N. Abel-Jalil', is written over a faint, rectangular stamp. The signature is fluid and cursive.